IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

(1) Anil & Ors. Vs. State of Rajasthan
S.B. CR. REVISION PETITION NO.969/2006

(2) Sahab Ram Vs. State of Rajasthan
S.B. CR. REVISION PETITION NO.928/2006

Against orders dated 12.09.2006 passed by Addl. Sessions Judge, Raisinghnagar in Sessions Case Nos. 11/2006 (State Vs. Devi Lal) and 10/2006 (State Vs. Sahab Ram).

DATE OF ORDER :: 21st November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. M.K. Garg and Mr. P.K. Sharma for petitioners.
Mr. V.R. Mehta, Public Prosecutor.

BY THE COURT:

Both these revision petitions have been filed against framing of charges against the accused-petitioners by orders dated 12.09.2006 passed by Addl. Sessions Judge, Raisinghnagar in Sessions Case Nos. 11/2006 (State Vs. Devi Lal) and 10/2006 (State Vs. Sahab Ram) in relation to an incident which took place on 08.12.2005 and

cross cases by the respective parties were filed. Since both the matter relates to one incident in which the present petitioners are involved and petitioners in both these petitions seek to quash the charges framed against them inter-alia interim relief for staying proceedings in the two sessions cases, they have been taken together and are being disposed of by this common order.

Briefly stated, in the complaints filed by respective parties allegations and counter-allegations have been leveled against each other. In the complaint filed by Saheb Ram it is alleged that opposite party was the aggressor who came to their field and started indiscriminate firing towards the petitioner and his family members which resulted in hitting pallets to his left leg and causing lacerated wound whereas the other side in the report filed by Devilal alleged that on 08.12.2005 in the night he alongwith other co-sharers of the land, went towards the field for watering the field and there Sahab Ram and others came armed with guns and fired towards him with an intention to kill him but the bullets passed by his side and the accused thereafter broke the glasses of his vehicle and

damaged tractor. The police after registering cases against the accused persons for various offences started investigation and on completion of investigation filed chargesheets against the accused petitioners. The learned trial Court, after hearing the parties has framed charges against petitioners Anil, Indraj, Devilal, Sudhir Kumar, Subhash & Ram Kumar under Sec. 147, 148, 149, 307, 336 IPC and Sec.27 of the Arms Act and against Sahab Ram for offence under Sec. 147, 148, 149, 307, 427 IPC and Sec.27 of the Arms Act. Hence, these petitions.

It has been submitted by learned counsel for accused petitioners Anil & others that only one injury was sustained by Sahab Ram on his person and that was on his left foot, which was a lacerated wound measuring 0.25 cm x 0.25 cm. The injury, according to the learned counsel, was simple in nature, and after x-ray, no bony injury was seen. It has been submitted further that the injury was on non-vital part and that too on the bottom of the foot, therefore, it could not be said that accused persons were having any intention to kill Sahab Ram. It is submitted that police has recovered 315 bore gun, in which no pallets could be

used, and this important aspect of the matter creates suspicion on the prosecution version. It is submitted that in the present case as many as 6 persons have been made accused but no specific role has been assigned to any petitioner. It is also submitted that the police has recovered an empty cartridge of 12 bore gun from the place of occurrence but no gun of 12 bore was recovered. It is submitted that the accused petitioners against the complainant party lodged a cross case wherein it has been alleged that the complainant party fired from 12 bore gun.

On behalf of Sahab Ram, it has been contended that the present incident has not happened in the manner as suggested by the prosecution. According to the learned counsel, the complainant party was aggressor. It is further submitted that in the night at about 10:15 PM when petitioner Sahab Ram and others were watering their fields, at that time, Devilal, Gopal, Sunil, Anil, Badri and other persons came in two vehicles viz., a jeep and a tractor, and they started firing towards them. It is submitted that the trial Court has completely ignored the fact that the land in question was in possession of the brother of the petitioner

and the petitioner and his brother Ramswaroop were cultivating the field peacefully and hindrance was created in their peaceful possession and fires from gun were made by the complainant party and they also lodged a false cross case against them.

The learned Public Prosecutor has supported the orders passed by the learned trial Court in the two sessions cases. It is submitted that allegations and counter allegations made by the parties suggest that persons of both the parties were armed with fire arms and they fired from their guns. It is also submitted that parties in relation are brothers and the dispute between them had arisen in relation to the land in question.

I have considered the submissions made before me.

A perusal of the First Information Report lodged by Sahab Ram discloses that the incident has taken place in the night at about 10 PM while he was watering his field along with other brothers and at that time a Marshall jeep

and a tractor came there and in those vehicles Devilal, Gopal Ram, Sunil, Sudhir, Anil, Badri and others came and started firing at them as a result of which Sahab Ram sustained injury on his left foot. It also appears that the tyre of the marshall jeep was found punctured a hole was there in the mudguard of the jeep and from spot three empty cartridges of 12 bore gun were recovered. Thus, it appears that firing took place at the spot but fortunately nobody sustained any injury on vital part.

The perusal of the First Information report lodged by Devilal indicates that Sahab Ram was having gun with him and at that time of incident Gopal, Sheokaran, Kartar Singh and others were there. It is stated that he was fortunate enough that he escaped as the bullet fired at him hit the vehicle lying at spot.

From perusal of the two FIRs, it appears that prima facie incident has taken place where parties were armed with deadly weapons and they used fire arm at the place of incident. It is correct that no fire hit on vital part of body of any person but that itself is not sufficient to draw

a conclusion that accused persons were not having intention to cause such bodily injury which may cause death. The recoveries in these cases have been effected on the basis of disclosoure statements made by the accused persons and the trial Court while discussing the present incident has given reason for framing charge against the accused petitioners.

At the time of framing of charge meticulous consideration of evidence and material by the Court is not required as has been held in Radhey Shyam Vs. Kunj Behari (AIR 1990 SC 121) and as per the provisions of Sec.227 & 228 of the Cr.P.C., if the trial Court comes to a prima facie conclusion that sufficient ground is available to frame the charges, charges should be framed. The trial Court, in both the cases, has framed charges against accused petitioners under Sec.307 and other sections of the Penal Code by giving detailed reasons. The intention part of the parties etc. are the matters which depend on evidence and other circumstances.

After having considered the submissions made, I

do not find any merit in these revision petitions and the same are hereby dismissed.

(SATYA PRAKASH PATHAK)J.

/jpa